

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :
: :
v. : CRIMINAL ACTION NO. 93-127
: :
GRADY JACKSON, JR. :
:

MEMORANDUM OPINION

Schmehl, J., JLS

October 25, 2021

After the Third Circuit permitted Mr. Jackson to file a second habeas corpus petition and the government responded to his petition, Mr. Jackson requested a stay in this case pending the disposition of *United States v. Smith*, 2021 WL 2135947 (3d Cir. May 11, 2021). In the Court's November 2019 Order granting the stay, the Court ordered Mr. Jackson to notify the Court when the stay can be lifted. The Third Circuit decided *Smith* in May 2021, but the Court did not hear from Mr. Jackson nor from his Federal Defender counsel. Nevertheless, the Court has reviewed the filings, the Third Circuit's decision in *Smith*, and has determined that the stay should be lifted and that Mr. Jackson's habeas petition can be appropriately decided on the merits.

Mr. Jackson brings two arguments in his habeas petitions. First, that his conviction and sentence for armed carjacking is invalid because his crime is not a 'crime of violence' pursuant to 18 U.S.C. section 924(c)(3). Second, that he is not a 'career offender' because he did not commit a crime of violence.

In *Smith*, the Third Circuit held that "reasonable jurists would not debate the conclusion that carjacking in violation of 18 U.S.C. § 2119 categorically constitutes a crime of violence under the elements clause of 18 U.S.C. § 924(c)(3)(A). See *United States v. Felder*, 993 F.3d 57, 79 (2d Cir. 2021) (collecting cases); cf *United States v. Walker*, 990 F.3d 316, 325-26 (3d Cir.

2021); *United States v. Johnson*, 899 F.3d 191, 203-04 (3d Cir. 2018).” *United States v. Smith*, 2021 WL 2135947, *1 (3d Cir. May 11, 2021). Clearly, the Third Circuit has spoken directly to this issue. Accordingly, Mr. Jackson’s petition is denied and dismissed because his underlying conviction of armed carjacking is a crime of violence, which also makes him a career offender.

BY THE COURT:

/s/ Jeffrey L. Schmehl
JEFFREY L. SCHMEHL, J.